

SERIOUS CRIME ACT 2015

EXPLANATORY NOTES

TERRITORIAL EXTENT

Part 1: Proceeds of Crime

Commentary on Sections

Chapter 1: England and Wales

Confiscation: other amendments

Section 13: Conditions for exercise of search and seizure powers

72. Sections 47A to 47S of POCA (as inserted by section 55 of the Policing and Crime Act 2009) provide for search and seizure powers in England and Wales to prevent the dissipation of realisable property that may be used to satisfy a confiscation order. The property may be seized in anticipation of a confiscation order being made. The seizure power is subject to judicial oversight. If a confiscation order is made, the property may be sold in order to satisfy the order. These sections are not yet in force. Section 47A sets out who may exercise the powers. These are an officer of Revenue and Customs, a constable and an accredited financial investigator. There are a number of pre-conditions for the exercise of these powers. In relation to the power to seize property (in section 47C), these pre-conditions are set out in section 47B and cover the situation where an individual is arrested or proceedings are begun against him or her for an indictable offence and there is reasonable cause to believe that he or she has benefited from the offence. In line with the change to the test for the grant of a restraint order made by section 11, *subsection (1)* of section 13 replaces the “reasonable cause to believe” test with a “reasonable grounds to suspect” test.
73. The seizure powers (in section 47C) and the search powers (in sections 47D to 47F) may only be exercised with the ‘appropriate approval’ described in section 47G unless, in the circumstances, it is not practicable to obtain such approval in advance. Sections 47G to 47I make provision in relation to this appropriate approval. Appropriate approval is the prior approval of a justice of the peace or, if that is not practicable, that of a senior officer, as defined in new section 47G(3). NCA officers designated with the powers of a constable, in accordance with the provisions in Schedule 5 to the Crime and Courts Act 2013, may exercise the powers in sections 47A to 47S of POCA.
74. *Subsection (2)* amends section 47G(3) to provide for the Director General of the NCA, or any other NCA officer authorised by the Director General, to confer the appropriate approval where the search or seizure powers are exercised by a designated NCA officer and it is not practicable to get prior approval from a justice of the peace.